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 dba UKIAH AUTO DISMANTLERS and WAYNE HUNT

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

PINOLEVILLE POMO NATION,)	Case No. C 07-02648 SI
PINOLEVILLE POMO NATION)	
ENVIRONMENTAL ASSOCIATION and)	
LEONA WILLIAMS,)	DEFENDANT WAYNE HUNT'S ANSWER
)	TO COMPLAINT FOR INJUNCTIVE
Plaintiffs,)	RELIEF, CIVIL PENALTIES,
)	RESTITUTION, REMEDIATION AND
v.)	DAMAGES
)	
UKIAH AUTO DISMANTLERS, WAYNE)	
HUNT, ISABEL LEWRIGHT, WARRIOR)	
INDUSTRIES, INC., RICHARD)	
MAYFIELD, ROSS JUNIOR MAYFIELD,)	
PAULA MAYFIELD, KENNETH HUNT,)	
U.S. ALCHEMY CORPORATION and)	
DOES 1-50, Inclusive,)	
)	
Defendants.)	

Comes now, WAYNE HUNT ("HUNT") answers the Complaint for injunctive relief, civil penalties, restitution, remediation and damages filed by plaintiffs PINOLEVILLE POMO NATION, PINOLEVILLE POMO NATION ENVIRONMENTAL ASSOCIATION, and LEONA WILLIAMS as follows:

1. In response to the allegations HUNT admits that Plaintiffs have brought this action under the citizen-suit provisions of the Clean Water Act and RCRA. HUNT denies

1 each and every other allegation of paragraph 1.

2 2. HUNT denies each and every allegation contained in Paragraph 2.

3 3. HUNT denies each and every allegation contained in Paragraph 3.

4 4. HUNT admits that Plaintiffs seek the relief requested.

5 5. HUNT admits that Plaintiffs seek the relief cited, except as expressly admitted
6 herein, HUNT denies each and every other allegation contained in Paragraph 5.

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8 6. HUNT has insufficient knowledge or information to form a belief as to the
9 truth of the allegations in Paragraph 6, and on such basis denies each and every allegation
10 contained therein.

11 7. HUNT has insufficient knowledge or information to form a belief as to the
12 truth of the allegations in Paragraph 7, and on such basis denies each and every allegation
13 contained therein.

14 8. HUNT has insufficient knowledge or information to form a belief as to the
15 truth of the allegations in Paragraph 8, and on such basis denies each and every allegation
16 contained therein.

17 9. HUNT has insufficient knowledge or information to form a belief as to the
18 truth of the allegations in Paragraph 9, and on such basis denies each and every allegation
19 contained therein.

20 10. In response to Paragraph 10, HUNT admits that he is a majority shareholder
21 in defendant U.S. ALCHEMY CORPORATION and that his address is 500-D Pinoleville
22 Drive, Ukiah, California 95482. Except as expressly admitted herein, HUNT denies each
23 and every other allegation of Paragraph 10.

24 11. HUNT has insufficient knowledge or information to form a belief as to the
25 truth of the allegations in Paragraph 11, and on such basis denies each and every allegation
26 contained therein.

27 12. In response to Paragraph 13, HUNT admits that the text of the provisions can
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1 be identified from the provisions, excepts as expressly admitted herein, HUNT denies each
2 and every other allegation of paragraph 13.

3 13. In response to Paragraph 14, HUNT admits that the text of the provisions can
4 be identified from the provisions, excepts as expressly admitted herein, HUNT denies each
5 and every other allegation of paragraph 14.

6 14. In response to Paragraph 15, HUNT denies each and every allegation
7 contained therein.

8 15. In response to Paragraph 16, HUNT admits the allegations contained therein.

9 16. In response to Paragraph 17, HUNT admits that the text of the documents
10 referred to can be identified from the referenced documents. Except as expressly admitted
11 herein, HUNT denies each and every other allegation contained in Paragraph 17.

12 17. In response to Paragraph 18, HUNT denies each and every allegation
13 contained therein.

14 18. In response to Paragraph 19, HUNT admits the allegations contained therein.

15 19. In response to Paragraph 20, HUNT admits that he has filed a notice with the
16 RWQB to be covered by the General Permit. Except as expressly admitted herein, HUNT
17 denies each and every other allegation contained in Paragraph 20.

18 20. In response to the statements in Paragraph 21, HUNT acknowledges that the
19 statements are generally correct as a matter of general application. Except as expressly
20 admitted herein, HUNT denies each and every other allegation contained in Paragraph 21.

21 21. In response to the statements in Paragraph 22, HUNT acknowledges that the
22 statements are generally correct as a matter of general application. Except as expressly
23 admitted herein, HUNT denies each and every other allegation contained in Paragraph 22.

24 22. In response to the statements in Paragraph 24, HUNT acknowledges that the
25 statements are generally correct as a matter of general application. Except as expressly
26 admitted herein, HUNT denies each and every other allegation contained in Paragraph 24.

1 23. In response to Paragraph 25, HUNT denies each and every allegation
2 contained therein.

3 24. In response to Paragraph 26, HUNT denies each and every allegation
4 contained therein.

5 25. In response to Paragraph 27, HUNT denies that plaintiffs are entitled to
6 impose civil penalties or that plaintiffs have established the basis for equitable relief, and
7 furthermore denies each and every allegation contained therein.

8 26. In response to Paragraph 28, HUNT denies each and every allegation
9 contained therein.

10 27. In response to Paragraph 29, HUNT denies each and every allegation
11 contained therein.

12 28. In response to Paragraph 30, HUNT denies each and every allegation
13 contained therein.

14 29. In response to Paragraph 31, HUNT denies each and every allegation
15 contained therein.

16 30. In response to Paragraph 32, HUNT denies that plaintiffs are entitled to
17 impose civil penalties or that plaintiffs have established the basis for equitable relief, and
18 furthermore denies each and every allegation contained therein.

19 31. In response to Paragraph 34, HUNT admits that the text of the document
20 referred to can be identified from the document. Except as expressly admitted herein,
21 HUNT denies each and every other allegation contained in Paragraph 34.

22 32. In response to Paragraph 35, HUNT admits that the North Coast Regional
23 Water Quality Control Board and the Mendocino County Department of Health, along
24 with other agencies, regulate the activities of the general public, including Hunt. Except
25 as expressly admitted herein, HUNT denies each and every other allegation contained in
26 paragraph 35.

1 33. In response to Paragraph 36, HUNT admits the allegations contained therein.

2 34. In response to Paragraph 37, HUNT denies each and every allegation
3 contained therein.

4 35. In response to Paragraph 38, HUNT denies each and every allegation
5 contained therein.

6 36. In response to Paragraph 40, HUNT admits that the text of the document
7 referred to can be identified from the document, except as expressly admitted herein,
8 HUNT denies each and every other allegation contained therein.

9 37. In response to Paragraph 41, HUNT denies each and every allegation
10 contained therein.

11 38. In response to Paragraph 42, HUNT denies each and every allegation
12 contained therein.

13 39. In response to Paragraph 43, HUNT denies each and every allegation
14 contained therein.

15 40. In response to Paragraph 44, HUNT has insufficient knowledge or
16 information to form a belief as to the accuracy of the allegations contained therein, and on
17 such basis denies each and every allegation contained therein.

18 41. In response to Paragraph 45, HUNT has insufficient knowledge or
19 information to form a belief as to the accuracy of the allegations contained therein, and on
20 such basis denies each and every allegation contained therein.

21 42. In response to Paragraph 46, HUNT has insufficient knowledge or
22 information to form a belief as to the accuracy of the allegations contained therein, and on
23 such basis denies each and every allegation contained therein.

24 43. In response to Paragraph 47, HUNT denies each and every allegation
25 contained therein.

1 44. In response to Paragraph 49, HUNT denies each and every allegation
2 contained therein.

3 45. In response to Paragraph 50, HUNT denies each and every allegation
4 contained therein.

5 46. In response to Paragraph 51, HUNT denies each and every allegation
6 contained therein.

7 47. In response to Paragraph 52, HUNT denies each and every allegation
8 contained therein.

9 48. In response to Paragraph 53, HUNT denies each and every allegation
10 contained therein.

11 49. In response to Paragraph 55, HUNT denies each and every allegation
12 contained therein.

13 50. In response to Paragraph 56, HUNT admits that the text of the document
14 referred to can be identified from the document, except as expressly admitted herein,
15 HUNT denies each and every other allegation contained in Paragraph 56.

16 51. In response to Paragraph 57, HUNT admits that the text of the document
17 referred to can be identified from the document, except as expressly admitted herein,
18 HUNT denies each and every other allegation contained in Paragraph 57.

19 52. In response to Paragraph 58, HUNT denies each and every allegation
20 contained therein.

21 53. In response to Paragraph 59, HUNT denies each and every allegation
22 contained therein.

23 54. In response to Paragraph 60, HUNT denies each and every allegation
24 contained therein.

25 55. In response to Paragraph 62, HUNT denies each and every allegation
26 contained therein.

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1 56. In response to Paragraph 63, HUNT denies each and every allegation
2 contained therein.

3 57. In response to Paragraph 65, HUNT denies each and every allegation
4 contained therein.

5 58. In response to Paragraph 66, HUNT denies each and every allegation
6 contained therein.

7 59. In response to Paragraph 67, HUNT denies each and every allegation
8 contained therein.

9 60. In response to Paragraph 69, HUNT denies each and every allegation
10 contained therein.

11 61. In response to Paragraph 70, HUNT denies each and every allegation
12 contained therein.

13 62. In response to Paragraph 71, HUNT denies each and every allegation
14 contained therein.

15 63. In response to Paragraph 72, HUNT denies each and every allegation
16 contained therein.

17 64. In response to Paragraph 73, HUNT denies each and every allegation
18 contained therein.

19 65. In response to Paragraph 74, HUNT denies each and every allegation
20 contained therein.

21 66. In response to Paragraph 75, HUNT denies each and every allegation
22 contained therein.

23 67. In response to Paragraph 76, HUNT has insufficient information and belief
24 as to the accuracy of statements contained therein, and on such basis denies each and every
25 allegation contained therein.

26 68. In response to Paragraph 77, HUNT has insufficient information and belief
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1 as to the accuracy of statements contained therein, and on such basis denies each and every
2 allegation contained therein.

3 69. In response to Paragraph 78, HUNT denies each and every allegation
4 contained therein.

5 70. In response to Paragraph 79, HUNT denies each and every allegation
6 contained therein.

7 71. In response to Paragraph 80, HUNT denies each and every allegation
8 contained therein.

9 72. In response to Paragraph 81, HUNT has insufficient information and belief
10 as to the accuracy of statements about plaintiffs' discoveries, and on such basis denies each
11 and every allegation contained therein.

12 73. In further response to Paragraph 81, HUNT denies that the document
13 referred to as Exhibit "E" was addressed to or received by HUNT, and on such basis denies
14 each and every allegation contained therein.

15 74. In response to Paragraph 82, HUNT denies each and every allegation
16 contained therein.

17 75. In response to Paragraph 83, HUNT has insufficient information and belief
18 as to what appeared reasonable to plaintiffs and on such basis denies each and every
19 allegation contained in Paragraph 83.

20 76. In response to Paragraph 84, HUNT admits that the notices referenced in
21 Exhibits "A" and "B" were mailed by certified mail by plaintiffs, but except as expressly
22 admitted, denies each and every other allegation contained in Paragraph 84.

23 77. In response to Paragraph 85, HUNT has insufficient information and
24 knowledge to form a belief as to the accuracy of the allegations contained therein because
25 HUNT does not know what plaintiffs refer to as "related acts and omissions" and on such
26 basis denies each and every allegation contained therein.

1 78. In response to Paragraph 86, HUNT denies each and every allegation
2 contained therein.

3 79. In response to Paragraph 88, HUNT denies each and every allegation
4 contained therein.

5 80. In response to Paragraph 89, HUNT denies each and every allegation
6 contained therein.

7 81. In response to Paragraph 91, HUNT denies each and every allegation
8 contained therein.

9 82. In response to Paragraph 92, HUNT denies each and every allegation
10 contained therein.

11 83. In response to Paragraph 94, HUNT denies each and every allegation
12 contained therein.

13 84. In response to Paragraph 95, HUNT denies each and every allegation
14 contained therein.

15 85. In response to Paragraph 96, HUNT denies each and every allegation
16 contained therein.

17 86. In response to Paragraph 98, HUNT denies each and every allegation
18 contained therein.

19 87. In response to Paragraph 99, HUNT admits that the parties have duties to
20 each other, but except as expressly admitted herein, HUNT denies each and every other
21 allegation contained in Paragraph 99.

22 88. In response to Paragraph 100, HUNT denies each and every allegation
23 contained therein.

24 89. In response to Paragraph 101, HUNT denies each and every allegation
25 contained therein.

26 90. In response to Paragraph 102, HUNT has insufficient knowledge or
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1 information to respond to paragraph 102, and on such basis denies each and every
2 allegation contained in Paragraph 102.

3 91. In response to Paragraph 103, HUNT denies each and every allegation
4 contained therein.

5 92. In response to Paragraph 104, HUNT denies each and every allegation
6 contained therein.
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8 AFFIRMATIVE DEFENSES

9 93. As and for a first affirmative defense, HUNT alleges that plaintiffs fail to state
10 a claim upon which relief can be granted.

11 94. As and for a second affirmative defense, HUNT alleges that plaintiffs lack
12 standing to litigate the claims and counts they assert.

13 95. As and for a third affirmative defense, HUNT alleges that plaintiffs' claims
14 are barred, in whole or in part, because plaintiffs have not provided adequate notice and
15 did not comply with 33 U.S.C. § 1365(b) or 42 U.S.C. § 6972(b) or both.
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17 96. As and for a fourth affirmative defense, HUNT alleges that plaintiffs' claims
18 are barred, in whole or in part, because this court lacks subject matter jurisdiction over this
19 dispute because there are no ongoing violations on property owned or controlled by this
20 answering defendant.

21 97. As and for a fifth affirmative defense, HUNT alleges that plaintiffs' claims are
22 barred, in whole or in part, by the applicable statute of limitations, including but not
23 limited to 28 U.S.C. § 6462.

24 98. As and for a sixth affirmative defense, HUNT alleges that HUNT should be
25 absolved of any and all liability because HUNT is in compliance with all requirements
26 imposed by the North Coast Regional Water Quality Control Board, and because
27 investigation and cleanup of the property is under the oversight of the North Coast Regional
28 Water Quality Control Board.

1 99. As and for a seventh affirmative defense, HUNT alleges that HUNT should
2 be absolved of any and all liability because HUNT is in compliance with all requirements
3 imposed by the North Coast Regional Water Quality Control Board and because the Court
4 should defer to the regulation and oversight of the property by the North Coast Regional
5 Water Quality Control Board.

6 100. As and for an eighth affirmative defense, HUNT alleges that plaintiffs' claims
7 are barred by the doctrine of *laches*.

8 101. As and for a ninth affirmative defense, HUNT alleges that plaintiffs' claims
9 are barred by the doctrine of unclean hands.

10 102. As and for a tenth affirmative defense, HUNT alleges that HUNT was not the
11 cause in fact of any threatened or actual releases of hazardous substances or hazardous
12 wastes as alleged by plaintiffs.

13 103. As and for an eleventh affirmative defense, HUNT alleges that at the time of
14 the incident alleged in plaintiffs' complaint, plaintiffs failed to exercise reasonable and
15 ordinary care for their own safety, such as the injuries and damages allegedly sustained by
16 plaintiffs were proximately caused or contributed to by plaintiffs' own negligence. More
17 specifically, plaintiffs failed to maintain their property free of pollution, hazardous
18 substances, or hazardous wastes.

19 104. As and for a twelfth affirmative defense, HUNT alleges that plaintiffs are not
20 entitled to the relief requested in the complaint because such relief would work a
21 substantial hardship on the defendant relative to the benefit plaintiffs would gain by the
22 relief requested.

23 105. As and for a thirteenth affirmative defense, HUNT alleges that plaintiffs
24 failed to mitigate their damages.

25 106. As and for a fourteenth affirmative defense, HUNT alleges that the injuries
26 asserted by plaintiffs occurred by reason of an upset [force majeure], specifically, a major
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1 storm occurring on the evening of December 31, 2005 - January 1, 2006.

2 107. As and for a fifteenth affirmative defense, HUNT alleges that plaintiffs have
3 failed to assist and aid defendant to minimize and prevent continuation of the alleged
4 violations at the time of the alleged investigations by plaintiffs by failing to advise HUNT,
5 his agents, representatives, or any person, of the alleged violations and by asserting this
6 matter defendant does not admit any violations, and to contrary denies any and all
7 allegations of any violations.
8

9 108. HUNT asserts all applicable defenses pled by any other defendant to this
10 action and incorporates them by this reference.

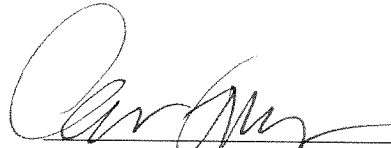
11 109. HUNT reserves the right to offer additional defenses, including defenses that
12 cannot now be identified because plaintiffs have not sufficiently described their claims or
13 because HUNT lacks sufficient knowledge and information.
14

15 RELIEF REQUESTED

16 Defendant WAYNE HUNT respectfully prays for judgment herein as follows:

- 17 1. That plaintiffs' request for relief be denied;
- 18 2. That this case be dismissed with prejudice;
- 19 3. That HUNT be awarded his costs of suit incurred herein;
- 20 4. That HUNT be awarded his reasonable attorney's fees and expert fees in
21 defending this suit; and
- 22 5. That HUNT be awarded such other and further relief as the Court considers
23 just and appropriate under all the circumstances of this case.
24

25 DATED: December 31, 2007


26 CHRISTOPHER J. NEARY
27 Attorney for Defendant
28 WAYNE HUNT